

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

UNITED STATES OF AMERICA, et	:	CASE NO.: 1:02-cv-00107
al.,	:	
	:	
Plaintiffs,	:	JUDGE S. ARTHUR SPIEGEL
	:	MAGISTRATE HOGAN
v.	:	
	:	RESPONSE TO MEISENHOLDER
	:	MOTION FOR REVIEW
BOARD OF HAMILTON COUNTY	:	
COMMISSIONERS, et al.	:	
	:	
Defendants.	:	

The City and County Defendants (“the MSD”) respond to Pauline Meisenhelder’s Motion for a Review (Doc #163) as follows:

1. The MSD investigated Ms. Meisenhelder’s claim through the City of Cincinnati’s claims office. At the time the Claims Administrator was Anita Boulmetis.
2. Ms. Boulmetis responded to Ms. Meisenhelder’s January 21, 2004 claim with a claim determination dated March 19, 2004. (Attached as Exhibit A).
3. The MSD determined that Ms. Meisenhelder’s backup was caused by a failure in the private sewer lateral on private property. (Email from MSD employee Dennis Madden attached as Exhibit B).
4. The MSD relied on its investigation and the determination by the claimant’s own plumber that the lateral was blocked by roots. (AA Plumbing work description and bill attached as Exhibit C).

5. As explained in the March 19 2004 Correspondence and the attachments provided to Ms. Meisenhelder by the MSD, the property owner is responsible for repairs on private property.
6. The Water in Basement (“WIB”) program only applies to buildings that have experienced wastewater backups due to the inadequate capacity of the sewer system.
7. The WIB program does not apply to building backups caused by blockages in private sewer laterals.
8. Based on the information provided by Ms. Meisenhelder’s plumber and confirmed by the MSD, the condition on her property was not caused by the inadequate capacity of the sewer system.

Accordingly, the MSD defendants request that Ms. Meisenhelder’s Request for Review be denied.

Respectfully submitted,

JULIA L. MCNEIL (0043535)
City Solicitor

/s/ Terrance A. Nestor

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Trial Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify on February 27, 2007 a true and accurate copy of the foregoing Response was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Terrance A. Nestor
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